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Elena Ruth Sassower, Coordinator

BY PRIORITY MAIL

September 11, 1998

Roger Pilon, Senior Fellow and Director
Center for Constitutional Studies
Cato Institute
1000 Massachusetts Avenue, N.W.
Washington, D.C. 20001

RE: Amicus and other assistance, *Sassower v. Mangano, et al.*,
U.S. Supreme Court #98-106

Dear Mr. Pilon:

Thank you for having your assistant, Katie Pelham, so promptly return my voice mail message for you and invite me to send the cert petition and supplemental brief in our §1983 civil rights action, *Sassower v. Mangano, et al.*, #98-106 -- on the Supreme Court's September 28th conference calendar. A copy is enclosed, together with a copy of the materials lodged with the Clerk of the U.S. Supreme Court¹: (1) the compendium accompanying CJA's written statement to the House Judiciary Committee in connection with the Committee's June 11, 1998 "oversight hearing of the administration and operation of the federal judiciary" [SA-17]; and (2) the exhibits to our July 27, 1998 letter to the Chief of the Public Integrity Section of the U.S. Justice Department, Criminal Division [SA-47].

These materials empirically explode the "all's well" conclusions of the 1993 Report of the National Commission on Judicial Discipline and Removal. Demonstrated by the petition is the breakdown of checks on federal judicial misconduct, identified by the Report as existing within the Judicial Branch. Demonstrated by the supplemental brief is the breakdown of the checks, identified as existing in the Legislative and Executive Branches. The result of this breakdown of fundamental checks in all three governmental branches is that:

"the constitutional protection restricting federal judges' tenure in office to 'good behavior' does not exist because all avenues by which their official misconduct and

¹ See supplemental brief, p. 9, fn. 2.

abuse of office might be determined and impeachment initiated (U.S. Constitution, Article II, §4 and Article III, §1 [SA-1] are corrupted by political and personal self-interest. The consequence: federal judges who pervert, with impunity, the constitutional pledge to 'establish Justice', (Constitution, Preamble [SA-1]) and who use their judicial office for ulterior purposes." supplemental brief, at p. 2

Such state of affairs, endangering the public and spelling the end of the rule of law, calls for strong response from the Cato Institute, committed, as it is, to "Restoring Constitutional Government". This important constitutional perspective is reflected in your testimony before the House Judiciary Committee at its May 15, 1997 hearing on "Judicial Misconduct and Discipline". I would note that several key questions posed by the Committee members to the panel on which you sat and the panelists' responses thereto are crystallized in the issues presented by the cert petition and supplemental brief. This includes the question as to whether "the good behavior language in the Constitution is an additional basis for impeachment"-- to which you stated the Constitution was "deliberately ambiguous" (pp. 103-104) -- and the colloquy as to whether a judge's rulings may serve as a basis for impeachment. Indeed, the cert petition (at p. 26) *expressly* calls upon the Supreme Court to articulate the fundamental principle that "judges who render dishonest decisions -- which they *know* to be devoid of factual or legal basis -- are engaging in criminal and impeachable conduct." For your convenience, a copy of your testimony and the exchange between the Committee members and panelists is annexed hereto as Exhibit "A".

Please let us hear from you as soon as possible. At this juncture, we are communicating with a variety of public interest/policy organizations and scholars. We hope they will assist us by reaching out to their media contacts so as to publicize *Sassower v. Mangano, et al.*, while it is pending before the Supreme Court, and, additionally, that they will sign-on to a letter of support for a petition for rehearing -- in the event the Court denies the cert petition. This is what we ask of the Cato Institute.

Thank you, in advance, for your consideration.

Yours for a quality judiciary,

ELENA RUTH SASSOWER, Coordinator
Center for Judicial Accountability, Inc. (CJA)

Enclosures